

DECISION NOTICE**Butcher Land Acquisition – Big Spring Creek
January 31, 2001****Description of Proposed Action:**

The Montana Department of Fish, Wildlife and Parks (FWP) proposes to purchase 50.1 acres of land, including approximately three-fourths of a mile of Big Spring Creek, from the Emmett and Darlene Butcher Trusts. This parcel of land contains excellent fish and wildlife habitat and is located approximately 4 miles downstream from the City of Lewistown, adjacent to Joyland Road. The intent of the proposal is to establish a Fishing Access Site that will guarantee perpetual public access to these important fish and wildlife resources.

Montana Environmental Policy Act (MEPA) Process:

As per the Montana Environmental Policy Act, all state agencies are required to assess potential impacts of proposed projects on the human and physical environment. In accordance, FWP prepared a 17-page Environmental Assessment that described the project in detail and evaluated the possible impacts. A press release was issued and copies of the Environmental Assessment were mailed on 22 December 2000 to 46 individuals or organizations that might be affected by the proposal. The proposal received substantial publicity, evidenced by a front-page article in the Lewistown News-Argus on Sunday, December 31, 2000. News articles detailing the proposal and requesting public comment also appeared in the Great Falls Tribune and Meagher County News. Comments were accepted through January 26, 2001.

Correction to Environmental Assessment:

The Environmental Assessment and press released incorrectly stated the purchase price as \$255,000. The correct purchase price is \$255,500, which is \$500 higher than the announced price.

Summary of Public Comments:

Written comments were received from the Big Spring Creek Cooperative Watershed Project, the Russell Country Sportsmen's Association, the Missouri River Flyfishers organization, Don's Store, and 7 individuals. With one exception, all expressed strong support for the acquisition. Supporters often expressed concerns that traditional fishing access with permission across private lands along Big Spring Creek is diminishing because land is being purchased by non-residents and closed to trespass. Many of the supporters mentioned the importance of preserving public access for future generations. Other comments in support were: 1) the property has excellent habitat and natural resources; 2) the money would be well-spent; 3) opportunities to acquire property along the creek are very limited; and 4) the price is reasonable for prime recreational property along the creek.

A neighboring landowner expressed strong concerns that acquisition of this property would cause a dramatic increase in trespassing on adjacent private property and that the value of adjacent private property would decrease substantially as a result of increased public access in the area. Also, one supporter mentioned that development of the new site should be very limited. Another supporter presented an opposite view, and felt that the site should be developed to provide adequate space for expected visitors.

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Response to Public Comments:

FWP agrees with those who are concerned about the prospect of declining public access on Big Spring Creek in the future. The creek is an extremely unique and precious resource in Central Montana. Securing adequate public access on Big Spring Creek has long been a high priority for FWP. It is important to have a series of strategically placed public access sites because the creek is very difficult to float and also is difficult to wade over long distances within the high water marks as required by the Montana Stream Access Law.

FWP recognizes that acquisition and development of public access sites can have adverse effects on adjacent property owners, particularly with regards to trespass. The Department manages four other public fishing access sites on Big Spring Creek and has worked responsibly with neighboring landowners to minimize trespass problems. Common solutions have typically involved signing and usually fencing property boundaries. The proposed new access site already has a history of substantial public use, due to the benevolent nature of the owners. FWP staff in the Lewistown area have received relatively few complaints concerning trespass on private lands that adjoin existing public fishing access sites on Big Spring Creek. Also, FWP has more ability to respond to complaints in the Lewistown area than in more rural areas because the Department has enforcement staff based in Lewistown. The Department will work closely with adjoining property owners at the proposed new access site to develop mutually acceptable plans to minimize trespass problems.

There appears to be some controversy regarding the level of development of the proposed site to facilitate public access. The Department presently has no specific site development proposals for this parcel. If the site is acquired, FWP will prepare a separate Environmental Assessment of development options and will attempt to find public consensus on the appropriate level of site development.

Decision:

Based on the analysis in the Environmental Assessment and the public comments received, I recommend the Montana Fish, Wildlife and Parks Commission approve acquisition of the Butcher property as proposed. I have reviewed the Environmental Assessment and applicable laws, regulations and policies and have determined this action will not have a significant effect on the human or physical environment. Therefore, an environmental impact statement will not be prepared.

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